

SENATE BILL NO. 447

INTRODUCED BY ELLINGSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING BALLOT ISSUES; LIMITING THE BASIS FOR BALLOT ISSUE CHALLENGES; REQUIRING CHALLENGES TO BE FILED AS ORIGINAL PROCEEDINGS IN THE SUPREME COURT; PROHIBITING A BALLOT ISSUE FROM CONTAINING A PREAMBLE OR ARGUMENTATIVE LANGUAGE; REVISING THE REVIEW AND APPROVAL PROCESS FOR BALLOT ISSUES; REVISING THE TERMINOLOGY RELATED TO BALLOT ISSUES; AMENDING SECTIONS 3-2-202, 3-5-302, 13-22-102, 13-27-201, 13-27-202, 13-27-203, 13-27-204, 13-27-205, 13-27-207, 13-27-208, 13-27-310, 13-27-311, 13-27-312, 13-27-315, 13-27-316, 13-27-402, 13-27-403, 13-27-501, 13-35-207, 13-37-210, AND 13-37-226, MCA; REPEALING SECTION 13-27-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-2-202, MCA, is amended to read:

"3-2-202. Original jurisdiction -- contest of ballot issue. (1) Except as provided in subsection (3), in the exercise of its original jurisdiction, the supreme court has power to issue writs of mandamus, certiorari, prohibition, injunction, and habeas corpus.

(2) ~~It~~ The supreme court also has power to issue all other writs necessary and proper to the complete exercise of its appellate jurisdiction.

(3) (a) ~~Except as provided in subsection (3)(b), a~~ A contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:

~~—— (i) violation of the law relating to qualifications for inclusion on the ballot;~~

~~—— (ii) constitutional defect in the substance of a proposed ballot issue; or~~

~~—— (iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures for~~
the inadequacy of the statement of purpose, the statements of implication, or the fiscal statement prepared by
the attorney general pursuant to 13-27-312 or 13-27-315 or incorrectness of the attorney general's legal
sufficiency opinion under 13-27-312. A contest under this subsection (3)(a) must be filed within 30 days after

1 the date on which the secretary of state sends a sample petition form or notice of an issue's rejection under
2 13-27-202(4).

3 ~~(b) A contest of a ballot issue based on subsection (3)(a)(i) or (3)(a)(iii) may be brought at any time after~~
4 ~~discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~
5 ~~(e)(b)~~ Nothing in subsection (3)(a) limits the right to challenge ~~a measure enacted~~ the merits or
6 application of a ballot issue approved by a vote of the people."
7

8 **Section 2.** Section 3-5-302, MCA, is amended to read:

9 **"3-5-302. Original jurisdiction.** (1) ~~Except as provided in subsection (6), the~~ The district court has
10 original jurisdiction in:

- 11 (a) all criminal cases amounting to felony;
- 12 (b) all civil and probate matters;
- 13 (c) all cases at law and in equity;
- 14 (d) all cases of misdemeanor not otherwise provided for; and
- 15 (e) all such special actions and proceedings as are not otherwise provided for.

16 (2) The district court has concurrent original jurisdiction with the justice's court in the following criminal
17 cases amounting to misdemeanor:

- 18 (a) misdemeanors arising at the same time as and out of the same transaction as a felony or
19 misdemeanor offense charged in district court;
- 20 (b) misdemeanors resulting from the reduction of a felony or misdemeanor offense charged in the
21 district court; and
- 22 (c) misdemeanors resulting from a finding of a lesser included offense in a felony or misdemeanor case
23 tried in district court.

24 (3) The district court has exclusive original jurisdiction in all civil actions that might result in a judgment
25 against the state for the payment of money.

26 (4) The district court has the power of naturalization and of issuing papers therefor in all cases where
27 it is authorized to do so by the laws of the United States.

28 (5) The district court and its judges have power to issue, hear, and determine writs of mandamus, quo
29 warranto, certiorari, prohibition, and injunction, other original remedial writs, and all writs of habeas corpus on
30 petition by or on behalf of any person held in actual custody in their respective districts. Injunctions and writs of

prohibition and habeas corpus may be issued and served on legal holidays and nonjudicial days.

~~(6) (a) Except as provided in subsection (6)(b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:~~

~~—— (i) violation of the law relating to qualifications for inclusion on the ballot;~~

~~—— (ii) constitutional defect in the substance of a proposed ballot issue; or~~

~~—— (iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

~~—— (b) A contest of a ballot issue based on subsection (6)(a)(i) or (6)(a)(iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

~~—— (c) Nothing in subsection (6) limits the right to challenge a measure enacted by a vote of the people."~~

Section 3. Section 13-22-102, MCA, is amended to read:

"13-22-102. Purpose and intent. The intent of the legislature is to establish a nonpartisan youth voting program that will:

(1) provide the youth of Montana with practical experience in the democratic process;

(2) increase the likelihood that Montana's youth will participate in the process as adult voters and encourage the participation of more parents in elections;

(3) not benefit any elected official, candidate for elective office, political party, campaign for or against any ballot issue, or any ~~measure attempting to qualify for placement on a~~ proposed ballot issue; and

(4) be entirely funded through private donations."

Section 4. Section 13-27-201, MCA, is amended to read:

"13-27-201. Form of petition generally. (1) A petition for the initiative, for the referendum, or to call a constitutional convention must be substantially in the form provided by this chapter. Clerical or technical errors that do not interfere with the ability to judge the sufficiency of signatures on the petition do not render a petition void.

(2) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may be fastened in sections of not more than 25 sheets. Near the top of each sheet containing signature lines must be printed the title of the statute or constitutional amendment proposed or the ~~measure~~ act of the legislature to be referred or a statement that the petition is for the purpose of calling a constitutional convention. If signature lines

are printed on both the front and back of a petition sheet, the information required above must appear on both the front and back of the sheet. The complete text of the ~~measure~~ proposed or referred ballot issue must be attached to or contained within each signature sheet if sheets are circulated separately. The text of the ~~measure~~ proposed ballot issue must be in the bill form provided in the most recent issue of the bill drafting manual ~~furnished~~ published by the legislative services division and may not contain a preamble or argumentative language. If sheets are circulated in sections, the complete text of the ~~measure~~ proposed ballot issue must be attached to each section.

(3) An internet posting of petition language must include a statement that the petition language and format may not be modified. An internet posting must include an affidavit in substantially the same form as prescribed by the secretary of state pursuant to 13-27-302."

Section 5. Section 13-27-202, MCA, is amended to read:

"13-27-202. Recommendations -- approval of form required Proposed ballot issues -- procedural requirements -- submission to legislative services division -- submission to secretary of state. (1) Before submission of ~~a sample sheet~~ the text of a proposed ballot issue to the secretary of state pursuant to subsection (3), the following requirements must be fulfilled:

(a) The text of the proposed ~~measure~~ ballot issue must be submitted to the legislative services division for review.

(b) The legislative services division staff shall review the text for clarity, consistency, and ~~any other factors that the staff considers when drafting proposed legislation~~ conformity with the most recent issue of the bill drafting manual published by the legislative services division.

(c) Within 14 days after submission of the text, the legislative services division staff shall ~~make~~ recommend in writing to the person submitting the text ~~written recommendations for changes in~~ revisions to the text or ~~a statement~~ shall state in writing that no ~~changes~~ revisions are recommended.

(d) The person submitting the text shall consider the recommendations and respond in writing to the legislative services division, accepting, rejecting, or modifying each of the recommended ~~changes~~ revisions. If no ~~changes~~ revisions are recommended, no response is required.

(2) The legislative services division shall furnish a copy of the correspondence provided for in subsection (1) to the secretary of state, who shall make a copy of the correspondence available to any person upon request.

(3) (a) Before a petition may be circulated for signatures, ~~a sample sheet containing~~ the text of the proposed ~~measure~~ ballot issue must be submitted to the secretary of state ~~in the form in which it will be circulated after the review required under subsection (1) is completed.~~ The ~~sample petition text~~ may not be submitted to the secretary of state more than 1 year prior to the final date for filing the signed petition with the county election administrator. The secretary of state shall reject the proposed ballot issue if the text contains material that was not submitted to the legislative services division and if the material not submitted to the legislative services division is a substantive revision not suggested by the legislative services division.

(b) The secretary of state shall refer a copy of the ~~petition sheet text~~ text of the proposed ballot issue, if accepted, to the attorney general for ~~approval~~ a legal sufficiency opinion and preparation of ballot statements pursuant to 13-27-312. The secretary of state ~~and attorney general shall each review the petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection, if any shall provide a copy of the text of the proposed ballot issue to any interested party who has made a request to be informed of proposed ballot issues and shall direct comments concerning proposed ballot statements or the legal sufficiency of the issue to the attorney general.~~ The attorney general shall also review the petition as to its legal sufficiency. If the attorney general determines that the petition is legally deficient, the attorney general shall notify the secretary of state of that fact and provide a copy of the determination to the secretary of state and to the petitioner within the time provided in 13-27-312(8). The petition may not be given final approval by the secretary of state unless the attorney general's determination is overruled pursuant to 13-27-316. As used in this section, "legal sufficiency" means that the petition complies with the statutory prerequisites to submission of the proposed measure to the electors and that the text of the proposed measure complies with constitutional requirements governing submission of ballot measures to the electorate. Review of a petition for legal sufficiency does not include consideration of the merits or application of the measure if adopted by the voters. The secretary of state or the attorney general may not reject the petition solely because the text contains material not submitted to the legislative services division unless the material not submitted to the legislative services division is a substantive change not suggested by the legislative services division.

(4) (a) ~~The~~ Upon receipt of the attorney general's legal sufficiency opinion and the ballot statements, if any, pursuant to 13-27-312, the secretary of state shall: ~~review the comments and statements of the attorney general received pursuant to 13-27-312 and make a final decision as to the approval or rejection of the petition~~

(a) if the attorney general holds that the proposed ballot issue is legally sufficient, immediately send to the person submitting the proposed ballot issue a sample petition, including the text of the proposed ballot issue,

1 the statement of purpose, and the statements of implication, each of which was approved by the attorney
2 general. The petition must be in the form required by this part. A petition may be circulated for signatures after
3 the sample petition is sent by the secretary of state. A signature gatherer may circulate the petition only in the
4 form of the sample petition prepared by the secretary of state. The secretary of state shall immediately provide
5 a copy of the sample petition to any interested person who has made a request to be informed of the approval
6 of petitions for the proposed ballot issue.

7 (b) ~~The secretary of state shall~~ if the attorney general holds that the proposed ballot issue is legally
8 deficient, immediately send written notice of the rejection to the person who submitted the ~~petition sheet~~
9 proposed ballot issue, of the approval or rejection of the form of the petition within 28 days after submission of
10 the petition sheet including a copy of the attorney general's legal sufficiency opinion.

11 ~~(e)~~(5) If an action is filed challenging the validity of the petition, the secretary of state shall immediately
12 notify the person who submitted the ~~petition sheet~~ proposed ballot issue.

13 ~~(5) A petition with technical defects in form may be approved with the condition that those defects will~~
14 ~~be corrected before the petition is circulated for signatures.~~

15 ~~—— (6) The secretary of state shall upon request provide the person submitting the petition with a sample~~
16 ~~petition form, including the text of the proposed measure, the statement of purpose, and the statements of~~
17 ~~implication, all as approved by the secretary of state and the attorney general. The petition may be circulated~~
18 ~~by a signature gatherer in the form of the sample prepared by the secretary of state. The petition may be~~
19 ~~circulated by a signature gatherer upon approval of the form of the petition by the secretary of state and the~~
20 ~~attorney general pending a final determination of its legal sufficiency."~~

21
22 **Section 6.** Section 13-27-203, MCA, is amended to read:

23 **"13-27-203. Numbering of petitions.** The secretary of state shall serially number all submitted petitions
24 that are approved as to form continuously from year to year. The numbering system ~~shall~~ must distinguish the
25 different types of petitions received and include provisions for numbering ~~measures~~ referenda referred to the
26 people by the legislature."

27
28 **Section 7.** Section 13-27-204, MCA, is amended to read:

29 **"13-27-204. Petition for initiative.** (1) The following is substantially the form for a petition calling for
30 a vote to enact a law by initiative:

1 PETITION TO PLACE INITIATIVE NO. _____

2 ON THE ELECTION BALLOT

3 (a) If 5% of the voters in each of one-half of the counties sign this petition and the total number of voters
4 signing this petition is _____, this ~~measure~~ initiative will appear on the next general election ballot. If a majority
5 of voters vote for this ~~measure~~ initiative at that election, it will become law.

6 (b) We, the undersigned Montana voters, propose that the secretary of state place the following
7 ~~measure~~ initiative on the _____, 20____, general election ballot:

8 (Title of ~~measure~~ initiative written pursuant to 13-27-312)

9 (Statement of implication written pursuant to
10 13-27-312)

11 (c) Voters are urged to read the complete text of the ~~measure~~ initiative, which appears (on the reverse
12 side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the ~~measure~~ initiative
13 on the ballot and does not necessarily mean the signer agrees with the ~~measure~~ initiative.

14 (d)

15 WARNING

16 A person who purposefully signs a name other than the person's own to this petition, who signs more
17 than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject
18 to a \$500 fine, 6 months in jail, or both.

19 (e) Each person is required to sign the person's name and list the person's address or telephone
20 number in substantially the same manner as on the person's voter registration card or the signature will not be
21 counted.

22 (2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature,
23 residence address, county of residence, and printed last name and first and middle initials of the signer. In place
24 of a residence address, the signer may provide the signer's post-office address or the signer's home telephone
25 number. An address provided on a petition by the signer that differs from the signer's address as shown on the
26 signer's voter registration card may not be used as the only means to disqualify the signature of that petition
27 signer."

28
29 **Section 8.** Section 13-27-205, MCA, is amended to read:

30 **"13-27-205. Petition for referendum.** (1) The following is substantially the form for a petition calling

1 for approval or rejection of an act of the legislature by the referendum:

2 PETITION TO PLACE REFERENDUM NO. ____

3 ON THE ELECTION BALLOT

4 (a) If 5% of the voters in each of 34 legislative representative districts sign this petition and the total
5 number of voters signing the petition is ____, Senate (House) Bill Number ____ will appear on the next general
6 election ballot. If a majority of voters vote for this ~~measure~~ referendum at that election, it will become law.

7 (b) We, the undersigned Montana voters, propose that the secretary of state place the following Senate
8 (House) Bill Number ____, passed by the legislature on _____ on the next general election ballot:

9 (Title of referendum written pursuant to 13-27-312)

10 (Statement of implication written pursuant to

11 13-27-312)

12 (c) Voters are urged to read the complete text of the ~~measure~~ referendum, which appears (on the
13 reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the ~~measure~~
14 referendum on the ballot and does not necessarily mean the signer agrees with the ~~measure~~ referendum.

15 (d)

16 WARNING

17 A person who purposefully signs a name other than the person's own to this petition, ~~or~~ who signs more
18 than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject
19 to a \$500 fine, 6 months in jail, or both.

20 (e) Each person ~~must~~ is required to sign the person's name and list the person's address or telephone
21 number in substantially the same manner as on the person's voter ~~registry~~ registration card; or the signature will
22 not be counted.

23 (2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature,
24 residence address, legislative representative district number, and printed last name and first and middle initials
25 of the signer. In place of a residence address, the signer may provide the signer's post-office address or the
26 signer's home telephone number. An address provided on a petition by the signer that differs from the signer's
27 address as shown on the signer's voter registration card may not be used as the only means to disqualify the
28 signature of that petition signer."

29

30 **Section 9.** Section 13-27-207, MCA, is amended to read:

1 **"13-27-207. Petition for initiative for constitutional amendment.** (1) The following is substantially
2 the form for a petition for an initiative to amend the constitution:

3 PETITION TO PLACE CONSTITUTIONAL

4 AMENDMENT NO.____ ON

5 THE ELECTION BALLOT

6 (a) If 10% of the voters in each of one-half of the counties sign this petition and the total number of
7 voters signing the petition is _____, this constitutional amendment will appear on the next general election ballot.

8 If a majority of voters vote for this amendment at that election, it will become part of the constitution.

9 (b) We, the undersigned Montana voters, propose that the secretary of state place the following
10 constitutional amendment on the _____, 20__, general election ballot:

11 (Title of the proposed constitutional amendment written pursuant

12 to 13-27-312)

13 (Statement of implication written pursuant to 13-27-312)

14 (c) Voters are urged to read the complete text of the ~~measure~~ amendment, which appears (on the
15 reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the
16 constitutional amendment on the ballot and does not necessarily mean the signer agrees with the amendment.

17 (d)

18 WARNING

19 A person who purposefully signs a name other than the person's own to this petition, who signs more
20 than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject
21 to a \$500 fine, 6 months in jail, or both.

22 (e) Each person is required to sign the person's name and list the person's address or telephone
23 number in substantially the same manner as on the person's voter registration card or the signature will not be
24 counted.

25 (2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature,
26 residence address, county of residence, and printed last name and first and middle initials of the signer. In place
27 of a residence address, the signer may provide the signer's post-office address or the signer's home telephone
28 number. An address provided on a petition by the signer that differs from the signer's address as shown on the
29 signer's voter registration card may not be used as the only means to disqualify the signature of that petition
30 signer."

1
2 **Section 10.** Section 13-27-208, MCA, is amended to read:

3 **"13-27-208. Petitions to be made available in each county election administrator's office.** Upon
4 ~~final approval~~ preparation of a sample petition form as required under 13-27-202(4), the secretary of state shall
5 forward a copy of the petition form, along with signature sheets, to the election administrator of each county. The
6 election administrator shall make a copy of each approved petition form available for reading and signing in the
7 administrator's office during business hours in an election year until the petitions are submitted under 13-27-301.
8 The secretary of state may charge the person who submitted the ~~petition~~ proposed ballot issue for which a
9 petition form is prepared a fee, which must be set and deposited in accordance with 2-15-405."
10

11 **Section 11.** Section 13-27-310, MCA, is amended to read:

12 **"13-27-310. Transmittal of ~~ballot forms~~ legislative referendum to attorney general.** ~~(1) The~~
13 ~~secretary of state shall transmit a copy of the form in which a ballot issue proposed by petition will appear on~~
14 ~~the ballot to the attorney general on the same day the completed petition is certified to the governor.~~

15 ~~———~~ **(2)** The secretary of state shall transmit a copy of an act referred to the people or a constitutional
16 amendment proposed by the legislature and a copy of the form in which the issue will appear on the ballot to
17 the attorney general no later than 6 months before the election at which the issue will be voted on by the people.
18 The secretary of state shall provide a copy of the issue to any interested parties who have made a request to
19 be informed of a proposed issue and shall direct comments concerning proposed ballot statements for the issue
20 to the attorney general.

21 ~~(3) If the ballot form is not approved by the attorney general pursuant to 13-27-313, the secretary of~~
22 ~~state shall immediately submit a new ballot form to the attorney general."~~

23
24 **Section 12.** Section 13-27-311, MCA, is amended to read:

25 **"13-27-311. Publication of proposed constitutional amendments.** (1) If a proposed constitutional
26 amendment or amendments are submitted to the people, the secretary of state shall have the proposed
27 amendment or amendments published in full twice each month for 2 months ~~previous~~ prior to the election at
28 which they are to be voted upon by the people, in not less than one newspaper of general circulation in each
29 county.

30 (2) The secretary of state may arrange for newspaper, radio, or television publication of proposed

1 constitutional amendments in each county. ~~A summary of the amendment as provided~~ The statement of purpose
2 prepared by the attorney general, as described in under 13-27-312 or 13-27-315, would suffice is sufficient for
3 the publication required by this section, ~~and should~~ Publication must be made at least twice each month for 2
4 months ~~previous~~ prior to the election."

5
6 **Section 13.** Section 13-27-312, MCA, is amended to read:

7 **"13-27-312. Review of ~~petition~~ proposed ballot issue by attorney general -- preparation of**
8 **statements -- fiscal note -- determination of legal sufficiency.** (1) Upon receipt of a ~~petition~~ proposed ballot
9 issue from ~~the office of~~ the secretary of state pursuant to 13-27-202, the attorney general shall examine the
10 ~~petition text~~ as to form and legal sufficiency, ~~as provided in 13-27-202, and, and~~ determine if the proposed ballot
11 issue conflicts with one or more issues that may appear on the ballot at the same election.

12 (2) If the attorney general holds that the proposed ballot issue is legally deficient, the attorney general
13 shall, within the time period provided in subsection (3), provide a copy of the legal sufficiency opinion to the
14 secretary of state and to the person who submitted the proposed ballot issue. If the proposed ballot issue is
15 found to be legally deficient, the secretary of state may not prepare and deliver a sample petition form under
16 13-27-202 unless the attorney general's determination is overruled pursuant to 13-27-316 and the attorney
17 general has prepared the ballot statements required under this section.

18 (3) Within 30 days after receipt of the proposed ballot issue, the attorney general shall forward to the
19 secretary of state the legal opinion required under subsection (1) and, if the attorney general holds that the
20 proposed ballot issue is legally sufficient, notice of whether the proposed ballot issue conflicts with one or more
21 issues that may appear on the ballot at the same election, along with the following ballot statements:

22 (a) a statement, not to exceed 100 words, explaining the purpose of the proposed ballot issue;

23 (b) statements, not to exceed 25 words each, explaining the implications of a vote for and a vote against
24 the proposed ballot issue; and

25 (c) a fiscal statement of no more than 50 words if a fiscal note was prepared for the proposed ballot
26 issue under subsection (4).

27 (4) If the if the proposed ballot issue has an effect on the revenue, expenditures, or the fiscal liability
28 of the state, the attorney general shall order a fiscal note incorporating an estimate of the effect, the substance
29 of which must substantially comply with the provisions of 5-4-205. The budget director, in cooperation with the
30 agency or agencies affected by the petition, is responsible for preparing the fiscal note and shall return it within

~~6 10 days unless the attorney general, for good cause shown, extends the time for completing the fiscal note.~~
~~2 A fiscal statement prepared by the attorney general under this section must be used on the petition and on the~~
~~3 ballot if the proposed ballot issue is placed on the ballot.~~

~~4 (2) If the petition form is approved, the attorney general shall endeavor to seek out parties on both sides~~
~~5 of the issue and obtain their advice. The attorney general shall prepare:~~

~~6 (a) a statement, not to exceed 100 words, explaining the purpose of the measure; and~~

~~7 (b) statements, not to exceed 25 words each, explaining the implications of a vote for and a vote against~~
~~8 the measure.~~

~~9 (3) The attorney general shall prepare a fiscal statement of no more than 50 words if a fiscal note was~~
~~10 prepared for the proposed ballot issue, and the statement must be used on the petition and ballot if the measure~~
~~11 is placed on the ballot.~~

~~12 (4)(5) The statement of purpose and the statements of implication ballot statements must express the~~
~~13 true and impartial explanation of the proposed ballot issue in plain, easily understood language and may not be~~
~~14 arguments or written so as to create prejudice for or against the measure proposed ballot issue. Statements of~~
~~15 implication must be written so that a positive vote indicates support for the measure and a negative vote~~
~~16 indicates opposition to the measure.~~

~~17 (5)(6) The statement of purpose, unless altered by a court under 13-27-316, is the petition title for the~~
~~18 measure proposed ballot issue circulated by the petition and the ballot title if the measure proposed ballot issue~~
~~19 is placed on the ballot.~~

~~20 (6)(7) The statements of implication must be written so that a positive vote indicates support for the~~
~~21 proposed ballot issue and a negative vote indicates opposition to the proposed ballot issue and must be placed~~
~~22 beside the diagram provided for marking of the ballot in a manner similar to but not limited to the following~~
~~23 example:~~

~~24 [] FOR extending the right to vote to persons 18 years of age~~

~~25 [] AGAINST extending the right to vote to persons 18 years of age~~

~~26 (7) If the petition is rejected as to form, the attorney general shall forward the comments to the secretary~~
~~27 of state within 21 days after receipt of the petition by the attorney general. If the petition is approved as to form,~~
~~28 the attorney general shall forward the statement of purpose, the statements of implication, and the fiscal~~
~~29 statement, if applicable, to the secretary of state within 21 days after receipt of the petition by the attorney~~
~~30 general.~~

~~—— (8) If the petition is approved as to form, within 30 days of the approval, the attorney general shall forward to the secretary of state the determination regarding legal sufficiency, as provided in 13-27-202.~~

(8) As used in this part, "legal sufficiency" means that the proposed ballot issue complies with the statutory prerequisites for submission of the proposed ballot issue to the electors and that the text of the proposed ballot issue complies with constitutional requirements governing submission of ballot issues to the electors. Review of a proposed ballot issue for legal sufficiency does not include consideration of the merits or application of the ballot issue if approved by a vote of the people."

Section 14. Section 13-27-315, MCA, is amended to read:

"13-27-315. Statements by attorney general on issues referred by legislature. (1) Upon receipt ~~under 13-27-310 of a copy of a ballot form under 13-27-310(2)~~ for an issue proposed by the legislature, the attorney general shall:

(a) order a fiscal note as provided in 13-27-312(4) if the issue has an effect on the revenues revenue, expenditures, or the fiscal liability of the state. At the same time the explanatory statement is prepared under subsection (2), the attorney general shall and, if applicable, prepare a fiscal statement of no more than 50 words; to be forwarded to the secretary of state at the same time as the explanatory statement.

(b) as provided under 13-27-312(3) AND SUBJECT TO 13-27-312(5), prepare a statement of purpose and statements of implication, unless the statements of implication have been provided by the legislature; and

(c) determine if the proposed ballot issue conflicts with one or more issues that may appear on the ballot at the same election.

~~(2) At the same time the attorney general, pursuant to 13-27-313, informs the secretary of state of the approval or rejection of a ballot form for an issue proposed by the legislature, the attorney general shall forward to the secretary of state a statement, not exceeding 100 words, expressing a true and impartial explanation of the purpose of the measure in plain, easily understood language. The statement may not be an argument and may not be written to create a prejudice for or against the issue. The statement prepared under this section is known as the attorney general's explanatory statement.~~

~~—— (3) If statements of the implication of a vote for or against a ballot issue have not been provided by the legislature, the attorney general shall prepare the statements. Requirements for statements of implication for ballot issues referred by the legislature are the same as those provided in 13-27-312 for other ballot issues. Statements of implication prepared by the attorney general must be returned to the secretary of state no later~~

1 ~~than the time specified for approval of the ballot form.~~

2 (2) Within 30 days after receipt of the issue proposed by the legislature, the attorney general shall
3 forward to the secretary of state the required ballot statements and notice of whether the ballot issue conflicts
4 with one or more issues that may appear on the ballot at the same election."

5
6 **Section 15.** Section 13-27-316, MCA, is amended to read:

7 **"13-27-316. ~~Court~~ Supreme court review of attorney general opinion or statements.** (1) If the
8 proponents of a ballot ~~measure~~ issue believe that the ~~statement of purpose, the statements of implication of a~~
9 ~~vote, or the fiscal statement formulated~~ ballot statements prepared by the attorney general pursuant to 13-27-312
10 or 13-27-315 do not satisfy the requirements of 13-27-312; or believe that the attorney general was incorrect in
11 determining that the petition was legally deficient, they may, within 10 days of the secretary of state's ~~or attorney~~
12 ~~general's determination regarding legal sufficiency provided for in 13-27-202, file an action in the district court~~
13 ~~in and for the county of Lewis and Clark challenging the adequacy of the statement or the attorney general's~~
14 ~~determination and requesting the court to alter the statement or modify the attorney general's determination~~
15 notice of a proposed ballot issue's rejection under 13-27-202(4), file an application for an original proceeding
16 in the supreme court challenging the adequacy of the statement or the determination.

17 (2) If the opponents of a ballot ~~measure~~ issue believe that the ~~statement of purpose, the statements of~~
18 ~~implication of a vote, or the fiscal statement formulated~~ ballot statements prepared by the attorney general
19 pursuant to 13-27-312 or 13-27-315 do not satisfy the requirements of 13-27-312; or believe that the attorney
20 general was incorrect in determining that the petition was legally sufficient, they may, within 10 days of the ~~date~~
21 ~~of secretary of state's~~ certification to the governor that the completed petition has been officially filed under
22 13-27-308, file an action in the district court in and for the county of Lewis and Clark challenging the adequacy
23 ~~of the statement or the attorney general's conclusion and requesting the court to alter the statement or overrule~~
24 ~~the attorney general's determination concerning the legal sufficiency of the petition~~ application for an original
25 proceeding in the supreme court challenging the adequacy of the statement or the determination.

26 (3) (a) Notice of an application for an original proceeding brought under this section must be served
27 upon the secretary of state and upon the attorney general. The action takes precedence over other cases and
28 matters in the ~~district~~ supreme court. The court shall examine the proposed ~~measure~~ ballot issue and the
29 challenged statement or ~~determination~~ legal sufficiency opinion of the attorney general and shall as soon as
30 possible render a decision ~~and certify to the secretary of state a statement which the court determines will meet~~

1 ~~the requirements of 13-27-312 or an opinion as to the adequacy of the ballot statements and the correctness~~
2 ~~of the attorney general's determination.~~

3 ~~(b) A statement certified by the court must be placed on the petition for circulation and on the official~~
4 ~~ballot.~~

5 (b) If the proposed ballot issue was rejected by the attorney general under 13-27-312 and the court finds
6 that the proposed ballot issue complies with statutory and constitutional requirements governing submission of
7 the issue to the electors, the attorney general shall prepare the ballot statements required under 13-27-312 as
8 soon as possible and send to the secretary of state the statements and a notice as to whether the proposed
9 ballot issue conflicts with one or more issues that may appear on the ballot at the same election. The secretary
10 of state shall immediately:

11 (i) prepare a revised sample petition form, using any statement or statements prepared under this
12 subsection (3)(b), and provide the revised sample petition form to the person who submitted the proposed ballot
13 issue under 13-27-202; and

14 (ii) forward the approved petition to the election administrator of each county under 13-27-208.

15 (c) If the court rules that the ballot statements do not meet the requirements of 13-27-312, the court shall
16 certify to the secretary of state the ballot statements that the court determines will meet the requirements of
17 13-27-312 and the secretary of state shall place the ballot statements certified by the court on the petition for
18 circulation and certified ballot form.

19 (d) If the court holds that the proposed ballot issue does not comply with statutory and constitutional
20 requirements governing the submission of the issue to the electors, any signatures gathered in support of the
21 petition are void and the proposed ballot issue may not appear on the ballot.

22 ~~(4) A copy of the petition in final form must be filed in the office of the secretary of state by the~~
23 ~~proponents.~~

24 ~~—— (5) Any party may appeal the order of the district court to the Montana supreme court by filing a notice~~
25 ~~of appeal within 5 days of the date of the order of the district court.~~

26 (4) An original proceeding in the supreme court under this section is the exclusive remedy for a
27 challenge to the adequacy of the ballot statements prepared by the attorney general or to the correctness of the
28 attorney general's legal sufficiency opinion pursuant to 13-27-312."

29
30 **Section 16.** Section 13-27-402, MCA, is amended to read:

"13-27-402. Committees to prepare arguments for and against ballot issues. (1) The arguments

advocating approval or rejection of the ballot issue and rebuttal arguments must be submitted to the secretary of state by committees appointed as provided in this section.

(2) The committee advocating approval of a legislative act referred to the people either by the legislature or by referendum petition or advocating approval of a constitutional amendment referred by the legislature must be composed of:

(a) one senator known to favor the referred ~~measure~~ issue, appointed by the president of the senate;

(b) one representative known to favor the referred ~~measure~~ issue, appointed by the speaker of the house of representatives; and

(c) one individual who need not be a member of the legislature, appointed by the first two members.

(3) (a) The committee advocating rejection of an act referred to the people or of a constitutional amendment proposed by the legislature must be composed of:

(i) one senator appointed by the president of the senate;

(ii) one representative appointed by the speaker of the house of representatives; and

(iii) one individual who need not be a member of the legislature, appointed by the first two members.

(b) Whenever possible, the members must be known to have opposed the issue.

(4) The following must be three-member committees and must be appointed by the person submitting the ~~petition~~ proposed ballot issue to the secretary of state under the provisions of 13-27-202:

(a) the committee advocating approval of a ballot issue proposed by any type of initiative petition; and

(b) the committee advocating rejection of any legislative act referred to the people by referendum petition.

(5) A committee advocating rejection of a ballot issue proposed by any type of initiative petition must be composed of five members. The governor, attorney general, president of the senate, and speaker of the house of representatives shall each appoint one member, and the fifth member must be appointed by the first four members. If possible, members must be known to favor rejection of the issue.

(6) A person may not be required to serve on any committee under this section, and except for legislative appointments made by the president of the senate or by the speaker of the house of representatives, the person making an appointment must have written acceptance of appointment from the appointee. If an appointment is not made by the required time, the committee members that have been appointed may fill the vacancy by unanimous written consent up until the deadline for filing the arguments."

1

2 **Section 17.** Section 13-27-403, MCA, is amended to read:

3 **"13-27-403. Appointment to committee.** (1) Except as provided in subsection (2), appointments to
4 committees advocating approval or rejection of an act referred to the people, a constitutional amendment
5 proposed by the legislature, or a ballot ~~measure~~ issue referred to the people by referendum petition or proposed
6 by any type of initiative petition must be made no later than 1 week prior to the deadline for filing arguments on
7 the ballot issue under 13-27-406.

8 (2) Appointments to committees advocating approval or rejection of a ballot ~~measure~~ issue referred to
9 the people by referendum petition or proposed by any type of initiative petition must be made no later than 1
10 week before the deadline for filing arguments on the ballot issue under 13-27-406. All persons responsible for
11 appointing members to the committee shall submit to the secretary of state the names and addresses of the
12 appointees no later than the date set by this subsection. The submission must include the written acceptance
13 of appointment from each appointee required by section 13-27-402(6). If an appointment is not made by the
14 required time, the committee members that have been appointed may fill the vacancy by unanimous written
15 consent up until the deadline for filing the arguments.

16 (3) Within 5 days after receiving notice under subsection (2), but not later than 5 days after the deadline
17 set for appointment of committee members, the secretary of state shall notify the appointees to a committee
18 appointed pursuant to subsection (1) or (2) by certified mail, with return receipt requested, of the deadlines for
19 submission of the committee's arguments."

20

21 **Section 18.** Section 13-27-501, MCA, is amended to read:

22 **"13-27-501. Secretary of state to certify ballot form -- abbreviated ballot.** (1) The secretary of state
23 shall furnish to the official of each county responsible for preparation of the ballots, at the same time as the
24 election administrator certifies the names of the persons who are candidates for offices to be filled at the
25 election, a certified copy of the form in which each ballot issue to be voted on by the people at that election is
26 to appear on the ballot.

27 (2) Except as provided in subsection (4), the secretary of state shall list for each issue:

28 (a) the number;

29 (b) the method of placement on the ballot;

30 (c) the title;

(d) the ~~attorney general's explanatory statement of purpose prepared by the attorney general pursuant to 13-27-315~~, if applicable;

(e) the fiscal statement, if applicable; ~~and~~

(f) the statements of the implication of a vote for or against the issue that are to be placed beside the diagram for marking the ballot; and

(g) if applicable, a statement that the issue conflicts with one or more issues referenced by number that also appear on the ballot and that only the issue receiving the greatest number of affirmative votes among the conflicting issues will be approved.

(3) When required to do so, the secretary of state shall use for each ballot issue the title of the legislative act or legislative constitutional proposal or the title provided by the attorney general or ~~district~~ supreme court. Following the number of the ballot issue, the secretary of state, when required to do so, shall include one of the following statements to identify why the issue has been placed on the ballot:

(a) an act referred by the legislature;

(b) an amendment to the constitution proposed by the legislature;

(c) an act of the legislature referred by referendum petition; or

(d) a law or constitutional amendment proposed by initiative petition.

(4) The county election administrator may, at least 14 days prior to the deadline for ballot certification by the secretary of state, request in writing that the county election administrator be furnished with an abbreviated form of the certified ballot. The secretary of state shall furnish to all counties from which the secretary of state has received such a request a certified ballot containing only the information in subsections (2)(a), (2)(e), and (2)(f). If the county election administrator requests that the abbreviated ballot be prepared, copies of the information contained in subsections (2)(a) through (2)(f) must be distributed to each elector by an election judge as the elector enters the polling place."

NEW SECTION. Section 19. Approval of conflicting ballot issues. If two or more conflicting ballot issues, as determined by the attorney general under 13-27-312, are approved at the same election by a majority of those voting on each issue, the secretary of state shall certify as approved only the ballot issue receiving the greatest number of affirmative votes.

Section 20. Section 13-35-207, MCA, is amended to read:

1 **"13-35-207. Deceptive election practices.** A person is guilty of false swearing, unsworn falsification,
2 or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-202,
3 45-7-203, or 45-7-208, as applicable, whenever the person:

4 (1) falsely represents ~~his~~ the person's name or other information required upon ~~his~~ the person's registry
5 card and causes registration with the card;

6 (2) signs a registry card knowingly witnessing any false or misleading statement;

7 (3) knowingly causes a false statement, certificate, or return of any kind to be signed;

8 (4) falsely makes a declaration or certificate of nomination;

9 (5) files or receives for filing a declaration or certificate of nomination knowing that all or part of the
10 declaration or certificate is false;

11 (6) forges or falsely makes the official endorsement of a ballot;

12 (7) forges or counterfeits returns of an election purporting to have been held at a precinct, municipality,
13 or ward where no election was in fact held;

14 (8) knowingly substitutes forged or counterfeit returns of election in place of the true returns for a
15 precinct, municipality, or ward where an election was held;

16 (9) signs a name other than ~~his~~ the person's own to a petition, signs more than once for the same
17 ~~measure~~ petition, or signs a petition while not being a qualified elector of the state; or

18 (10) makes a false oath or affidavit where an oath or affidavit is required by law."

19
20 **Section 21.** Section 13-37-210, MCA, is amended to read:

21 **"13-37-210. Naming and labeling of political committees.** (1) Any political committee filing a
22 certification and organizational statement pursuant to 13-37-201 shall:

23 (a) name and identify itself in its organizational statement using a name or phrase:

24 (i) that clearly identifies the economic or other special interest, if identifiable, of a majority of its
25 contributors; and

26 (ii) if a majority of its contributors share a common employer, that identifies the employer; and

27 (b) label any media advertisement or other paid public statement it makes or causes to be made in
28 support of or opposition to any candidate or ballot ~~measure~~ issue by printing or broadcasting its name, as
29 provided under subsection (1)(a), and position in support of or opposition to the candidate or ballot ~~measure~~
30 issue as a part of the media advertisement or other paid public statement.

(2) The naming and labeling requirements in subsection (1) are reporting requirements for purposes of enforcement under 13-37-128."

Section 22. Section 13-37-226, MCA, is amended to read:

"13-37-226. Time for filing reports. (1) Candidates for a state office filled by a statewide vote of all the electors of Montana and political committees that are organized to support or oppose a particular statewide candidate shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot;

(b) on the 10th day of March and September in each year that an election is to be held and on the 15th and 5th days preceding the date on which an election is held and within 24 hours after receiving a contribution of \$200 or more if received between the 10th day before the election and the day of the election;

(c) not more than 20 days after the date of the election; and

(d) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

(2) Political committees organized to support or oppose a particular statewide ballot issue shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which the text of the proposed ~~measure~~ ballot issue is submitted for review and approval pursuant to 13-27-202 during the year or years prior to the election year that an issue is or is expected to be on the ballot;

(b) on the 10th day of March and on the 10th day of each subsequent month through September;

(c) on the 15th and 5th days preceding the date on which an election is held;

(d) within 24 hours after receiving a contribution of \$500 or more if received between the 10th day before the election and the day of the election;

(e) within 20 days after the election; and

(f) on the 10th day of March and September of each year following an election until the political committee files a closing report as specified in 13-37-228(3).

(3) Candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or a district court judge, and political committees that are specifically organized to

1 support or oppose a particular state district candidate or issue shall file reports:

2 (a) on the 12th day preceding the date on which an election is held and within 48 hours after receiving
3 a contribution of \$100 or more if received between the 17th day before the election and the day of the election.

4 The report under this subsection (3)(a) may be made by mail or by electronic communication to the clerk and
5 recorder and the commissioner of political practices.

6 (b) not more than 20 days after the date of the election; and

7 (c) whenever a candidate or political committee files a closing report as specified in 13-37-228(3).

8 (4) Candidates for any other public office and political committees that are specifically organized to
9 support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount
10 of contributions received or the total amount of funds expended for all elections in a campaign, excluding the
11 filing fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

12 (5) For the purposes of this subsection, a committee that is not specifically organized to support or
13 oppose a particular candidate or ballot issue and that receives contributions and makes expenditures in
14 conjunction with an election is an independent committee. For the purpose of reporting, a political party
15 committee is an independent committee. An independent committee shall file:

16 (a) a report on the 12th day preceding the date of an election in which it participates by making an
17 expenditure;

18 (b) a report not more than 20 days after the date of the election in which it participates by making an
19 expenditure; and

20 (c) a report on a date to be prescribed by the commissioner for a closing report at the close of each
21 calendar year.

22 (6) The commissioner may promulgate rules regarding the extent to which organizations that are
23 incidental political committees shall report their politically related activities in accordance with this chapter.

24 (7) All reports required by this section must be complete as of the fifth day before the date of filing as
25 specified in 13-37-228(2) and this section."

26
27 **NEW SECTION. Section 23. Repealer.** Section 13-27-313, MCA, is repealed.

28
29 **NEW SECTION. Section 24. Codification instruction.** [Section 19] is intended to be codified as an
30 integral part of Title 13, chapter 27, part 3, and the provisions of Title 13, chapter 27, part 3, apply to [section 19].

1

2 NEW SECTION. **Section 25. Severability.** If a part of [this act] is invalid, all valid parts that are

3 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,

4 the part remains in effect in all valid applications that are severable from the invalid applications.

5

6 NEW SECTION. **Section 26. Effective date.** [This act] is effective on passage and approval.

7 - END -